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Paper No. 22

In re Application of
Sheldon Sturgis *et al*
Application No. 09/772,189
Filed: January 29, 2001
Attorney Docket No. 13578.1US01

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: DECISION ON PETITION
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This is a decision on the petition filed on January 23, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to timely file a reply to the Office letter dated May 23, 2003. No fee is required for the petition, which is considered pursuant to 37 CFR 1.181.

The petition is granted.

Petitioners allege that this application is not abandoned. Petitioners support their allegation by enclosing a copy of a reply to the Office letter in question, a copy of a petition for a three month extension of time, and a copy of a filing receipt for the reply showing that the reply, petition and fee for the extension were received in the Office on November 28, 2003. The reply and petition for extension each have affixed thereto a 37 CFR 1.8(a) certificate of transmission dated November 24, 2003, the Monday immediately following the date upon which the period for filing a timely reply, as extended, expired. As a reply to the Office letter in question was filed within the time for filing a reply as set by the Office letter in question and thereafter extended, it is clear that this application is not abandoned. See 37 CFR 1.8(b). It is also noted that Office financial records confirm receipt of the extension of time fee.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the reply filed on November 28, 2003, certificate of transmission date November 24, 2003.

PETITION GRANTED.


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